

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
HELENA DIVISION**

MICHAEL DUANE MARLIN
Reg. #08387-003

PLAINTIFF

V.

2:06CV00060 JMM

LT. LABRADO, FCI- Forrest City; CORRECTIONAL
OFFICER BOWDEN, FCI- Forrest City; and CASE
MANAGER DANAHER, FCI- Forrest City

DEFENDANTS

ORDER

Plaintiff, an inmate at the Federal Correctional Institute in Beaumont, Texas, commenced this action pursuant to *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971), regarding various claims related to an injury he allegedly sustained in his wheelchair. On September 14, 2006, the Court adopted the Report and Recommendations of the magistrate judge and granted summary judgment in favor of the Defendants (docket entry #47). Plaintiff filed a Notice of Appeal (docket entry #53) along with an Application to Proceed *In Forma Pauperis* on Appeal (docket entry #54). Because the Court had certified in its Order of Dismissal that an *in forma pauperis* appeal would not be taken in good faith, the Court denied Plaintiff's *in forma pauperis* application. See docket entry #55.

In a Mandate issued September 20, 2007 (docket entry #60), the United States Court of Appeals for the Eighth Circuit summarily affirmed this Court's judgment. The Court of Appeals granted Plaintiff's application to proceed *in forma pauperis* and ordered that Plaintiff may pay the

filing fee in installments in accordance with 28 U.S.C. § 1915(b). The assessment and collection of those fees was remanded to this Court.

Based on information contained in a certified copy of Plaintiff's inmate trust fund account (docket entry #54), the Court will assess an initial partial filing fee of \$5.00. Upon payment of that initial partial filing fee, Plaintiff will be obligated to make monthly payments of 20% of the preceding month's income credited to Plaintiff's prison trust account each time the account balance exceeds \$10.00, until the filing fee is paid in full. Plaintiff's present custodian, and any future custodians, are required to send to the Clerk of the Court these payments from Plaintiff's prison trust account until the appellate filing fee of \$455.00 is paid in full.

IT IS THEREFORE ORDERED that:

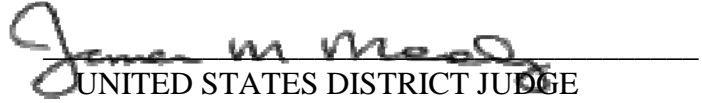
1. The Director of the Federal Bureau of Prisons, or his designee, shall collect from Plaintiff's prison trust account an initial partial filing fee in the amount of \$5.00 and shall forward the amount to the Clerk of the Court. Said payment shall be clearly identified by the name and number assigned to this action.

2. Thereafter, the Director of the Federal Bureau of Prisons, or his designee, shall collect from Plaintiff's prison trust account the \$450.00 balance of the filing fee by collecting monthly payments from Plaintiff's prison trust account in an amount equal to 20% of the preceding month's income credited to the prisoner's trust account and forwarding those payments to the Clerk of the Court each time the amount in the account exceeds \$10.00, in accordance with 28 U.S.C. § 1915(b)(2). The payments shall be clearly identified by the name and number assigned to this action.

3. The Clerk of the Court is directed to send a copy of this Order to the Warden of the Federal Correctional Institute-Low, FCIBTX, Post Office Box 26020, Beaumont, Texas, 77720-6020.

4. The Clerk of the Court is directed to notify the Eighth Circuit Court of Appeals when these appellate filing fees have been paid in full.

IT IS SO ORDERED this 24th day of September, 2007.


UNITED STATES DISTRICT JUDGE